

Public Health Service, HHS

§ 8.33

(f) *Transmission of written communications.* Because of the importance of timeliness for these expedited procedures, all written communications between the parties and between either party and the reviewing official shall be sent by facsimile transmission, personal service, or commercial overnight delivery service.

§ 8.29 Ex parte communications.

Except for routine administrative and procedural matters, a party shall not communicate with the reviewing or presiding official without notice to the other party.

§ 8.30 Transmission of written communications by reviewing official and calculation of deadlines.

(a) *Timely review.* Because of the importance of a timely review, the reviewing official should normally transmit written communications to either party by facsimile transmission, personal service, or commercial overnight delivery service, or certified mail, return receipt requested, in which case the date of transmission or day following mailing will be considered the date of receipt. In the case of communications sent by regular mail, the date of receipt will be considered 3 days after the date of mailing.

(b) *Due date.* In counting days, include Saturdays, Sundays, and holidays. However, if a due date falls on a Saturday, Sunday, or Federal holiday, then the due date is the next Federal working day.

§ 8.31 Authority and responsibilities of the reviewing official.

In addition to any other authority specified in this subpart C, the reviewing official and the presiding official, with respect to those authorities involving the oral presentation, shall have the authority to issue orders; examine witnesses; take all steps necessary for the conduct of an orderly hearing; rule on requests and motions; grant extensions of time for good reasons; dismiss for failure to meet deadlines or other requirements; order the parties to submit relevant information or witnesses; remand a case for further action by the respondent; waive or modify these procedures in a specific

case, usually with notice to the parties; reconsider a decision of the reviewing official where a party promptly alleges a clear error of fact or law; and to take any other action necessary to resolve disputes in accordance with the objectives of the procedures in this subpart.

§ 8.32 Administrative record.

The administrative record of review consists of the review file; other submissions by the parties; transcripts or other records of any meetings, conference calls, or oral presentation; evidence submitted at the oral presentation; and orders and other documents issued by the reviewing and presiding officials.

§ 8.33 Written decision.

(a) *Issuance of decision.* The reviewing official shall issue a written decision upholding or denying the suspension, proposed revocation, or adverse action. The decision will set forth the reasons for the decision and describe the basis for that decision in the record. Furthermore, the reviewing official may remand the matter to the respondent for such further action as the reviewing official deems appropriate.

(b) *Date of decision.* The reviewing official will attempt to issue the decision within 15 days of the date of the oral presentation, the date on which the transcript is received, or the date of the last submission by either party, whichever is later. If there is no oral presentation, the decision will normally be issued within 15 days of the date of receipt of the last reply brief. Once issued, the reviewing official will immediately communicate the decision to each party.

(c) *Public notice and communications to the Drug Enforcement Administration (DEA).* (1) If the suspension and proposed revocation of OTP certification are upheld, the revocation of certification will become effective immediately and the public will be notified by publication of a notice in the FEDERAL REGISTER. SAMHSA will notify DEA within 5 days that the OTP's registration should be revoked.

(2) If the suspension and proposed revocation of OTP certification are denied, the revocation will not take effect and the suspension will be lifted immediately. Public notice will be given by publication in the FEDERAL REGISTER. SAMHSA will notify DEA within 5 days that the OTP's registration should be restored, if applicable.

§ 8.34 Court review of final administrative action; exhaustion of administrative remedies.

Before any legal action is filed in court challenging the suspension, proposed revocation, or adverse action, respondent shall exhaust administrative remedies provided under this subpart, unless otherwise provided by Federal law. The reviewing official's decision, under § 8.28(e) or § 8.33(a), constitutes final agency action as of the date of the decision.

PART 9—STANDARDS OF CARE FOR CHIMPANZEES HELD IN THE FEDERALLY SUPPORTED SANCTUARY SYSTEM

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AUTHORITY: 42 U.S.C. 216, 287a–3a.

SOURCE: 73 FR 60423, Oct. 10, 2008, unless otherwise noted.

§ 9.1 Applicability and purpose.

(a) *General.* The standards of care set forth in this part apply to the chimpanzee sanctuaries that are contracted (or subcontracted) to the Federal Government to operate the federally supported chimpanzee sanctuary system authorized by section 481C of the Pub-

lic Health Service (PHS) Act, as amended (42 U.S.C. 287a–3a).

(b) *What is the purpose of the federally supported chimpanzee sanctuary system and the authority for establishing these standards of care regulation?* The Chimpanzee Health Improvement, Maintenance, and Protection Act (Pub. L. 106–551, referred to as the “CHIMP Act” or “Chimpanzee Retirement Act”) was enacted by Congress to provide for the establishment and operation of a sanctuary system to provide lifetime care for chimpanzees that have been used, or were bred or purchased for use, in research conducted or supported by the agencies of the Federal Government, and that are determined to be no longer needed for such research. The CHIMP Act also mandates that standards of care for chimpanzees in the sanctuary shall be developed to ensure the well-being of chimpanzees and the health and safety of the chimpanzees.

(c) *To what chimpanzee sanctuaries do the standards of care in this part apply?* The standards of care set forth in this part apply to only those sanctuaries that are contracted or subcontracted to the Federal Government to operate the federally supported chimpanzee sanctuary system.

§ 9.2 Definitions.

As used in this part:

Adequate veterinary care means a program directed by a veterinarian qualified through training and/or experience to provide professional medical care to the chimpanzees within the Sanctuary and with the appropriate authority to provide this care. The program also provides guidance to all caregivers on all matters relating to the health and well-being of the chimpanzees.

American Zoo and Aquarium Association (AZA) means the professional society composed of individuals with various backgrounds and interests that are devoted to advancing the knowledge and understanding of zoo animals and the management of zoos in the United States.

American Zoo and Aquarium Association (AZA) Accreditation Standards are those standards developed by the AZA that are used to review, evaluate, and accredit zoos or zoological gardens. These standards cover a variety of